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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,438	01/07/2002	Merle Dana Sears	10366	9488

7590 12/20/2002  
William W. Habelt  
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Syracuse, NY 13221

EXAMINER

LEO, LEONARD R

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/038,438	SEARS ET AL.	
	Examiner	Art Unit	
	Leonard R. Leo	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |                                                                                              |                                                                             |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of the invention of Group 2 in Paper No. 3 is acknowledged. The traversal is on the ground(s) that applicants are unaware of the materially different process suggested by the Examiner. This is not found persuasive because class 29, subclass 890.042 clearly provides for methods of manufacturing heat exchangers with fluid expansion of channels between joined sheets. The Examiner cannot dictate how narrow or broad applicants claimed their instant invention. However, in this instance, the details of the two separate statutory classes of invention do not rely upon one another. Feasibility and economics are secondary considerations in patentability.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show "land areas 29" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: Page 5 discloses "land areas 29" and "end 29". It is not clearly understood how the land area and end are the same element.

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Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, the recitation of "a plurality of sequential serpentine passages" is indefinite. As best understood, there exists only one serpentine passage in the channel portion.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bockhorst (Figure 5). Any passage 13' or 14' is read as the "elongate pocket."

Claims 6-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Aid. Any passage 106 or 107 is read as the "elongate pocket."

In the rejections above, the functional recitation of "for receiving a fastener" has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set

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forth in 35 USC § 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aid in view of Dempsey.

Aid discloses all the claimed limitations except a folded edge.

Dempsey discloses a panel heat exchanger comprising a single sheet folded upon itself for the purpose of reducing the number of jointed seams.

Since Aid and Dempsey are both from the same field of endeavor and/or analogous art, the purpose disclosed by Dempsey would have been recognized in the pertinent art of Aid.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Aid a single sheet folded upon itself for the purpose of reducing the number of jointed seams as recognized by Dempsey. In the combination of references, Aid discloses the pocket extends through the sheets, where Dempsey discloses the folded edge is opposite the inlet and outlet edge. Dempsey discloses the prior art employs two sheets seamed jointed together.

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*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry of a general nature, relating to the status of this application or clerical nature (i.e. missing or incomplete references, missing or incomplete Office actions or forms) should be directed to the Technology Center 3700 Customer Service whose telephone number is (703) 306-5648.

Any inquiry concerning this Office action should be directed to Leonard R. Leo whose telephone number is (703) 308-2611.

A handwritten signature in cursive script, appearing to read "Leonard R. Leo".

LEONARD R. LEO  
PRIMARY EXAMINER  
ART UNIT 3743

December 16, 2002